

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6408

BILL NUMBER: HB 1030

NOTE PREPARED: Dec 6, 2010

BILL AMENDED:

SUBJECT: Ephedrine and Pseudoephedrine.

FIRST AUTHOR: Rep. Culver

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ GENERAL
☒ DEDICATED
☒ FEDERAL

IMPACT: State

Summary of Legislation: This bill makes materials, compounds, mixtures, or preparations that contain ephedrine or pseudoephedrine Schedule III controlled substances subject to being dispensed only by a prescription.

Effective Date: July 1, 2011.

Summary of NET State Impact: This bill will result in about \$24,400 annually in additional Medicaid cost. In addition, it has been estimated to require \$127,000 in FY 2012 and approximately \$72,000 annually thereafter for the Indiana Professional Licensing Agency and the Board of Pharmacy. The Indiana State Police (ISP) estimate an undetermined level of cost avoidance due to the decline in the need to detect and clean up clandestine laboratory sites.

Explanation of State Expenditures:

Medicaid Expenditures:

Currently, Medicaid requires prescriptions for over-the-counter (OTC) medications for Medicaid members. Only those OTC medications included on the Medicaid formulary are considered to be covered drugs. The formulary includes pseudoephedrine products. Medicaid does not pay a dispensing fee to pharmacies for OTC claims.

If pseudoephedrine products were changed from OTC status to a prescription Schedule III drug, a dispensing fee of up to \$4.90 would be paid to the pharmacy provider. The Office of Medicaid Policy and Planning

estimates 15,000 annual claims for pseudoephedrine products would result in additional annual Medicaid dispensing fees of \$73,500. The state matching share of the additional cost would be about \$24,400.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 34%. Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 66%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. Federal ARRA enhanced Medicaid stimulus funding will be available to the state until June 30, 2011.

Indiana Professional Licensing Agency (IPLA) and Board of Pharmacy Expenditures:

The IPLA and the Board of Pharmacy estimate that placing ephedrine and pseudoephedrine on the Schedule III list would require \$127,000 in FY 2012 and approximately \$72,000 annually thereafter. It is estimated that increased data collection and reporting requirements for additional scheduled drug purchases for the 1,400 in-state pharmacies may require one additional compliance staff position within the Indiana Scheduled Prescription Electronic Collections and Tracking (INSPECT) program. The annual cost associated with an additional staff position is estimated to be \$38,000 annually. Increased annual data hosting and storage costs and system maintenance cost due to increased volume of data are estimated to require an additional \$34,000. One-time software modifications that will be necessary due to the additional scheduled drugs and increased sales reporting volume are estimated to require \$55,000 in the first year.

Indiana State Police:

The ISP have reported that no additional costs would be expected to be incurred as a result of placing ephedrine and pseudoephedrine on the Schedule III list. ISP anticipates the impact of requiring a prescription for these compounds would be a decrease in the level of resources currently used to dismantle clandestine labs and the associated environmental cleanup. During CY 2009, ISP reported 1,343 methamphetamine (meth) labs. ISP estimates that the average cost of cleanup per meth lab is \$2,128. The average cost does not include costs to social service organizations, remediation, incarceration, or medical expenses incurred.

Background Information: Ephedrine and pseudoephedrine are known as precursor drugs necessary to the production of meth. Indiana currently requires the sale of cold and allergy products containing these drugs to be limited and tracked by purchaser with the products maintained behind the counter or in full view of a pharmacist. Clandestine meth labs are considered a public safety menace; being explosive, toxic, and environmentally pervasive. The costs of dealing with meth lab investigation, dismantling, and cleanup affect the budgets of numerous state agencies. ISP data indicates that in 2002, there were 732 clandestine labs located and dismantled statewide; in 2009, ISP reported 1,343 labs. ISP estimates the average cost of cleanup of \$2,128 per lab. ISP data is estimated to represent about 85% of the total number of labs located and dismantled in the state.

Two states, Oregon and Mississippi, have enacted legislation requiring a prescription for products containing ephedrine or pseudoephedrine. Oregon's data demonstrates declines in clandestine labs for three phases of limitations on purchases of ephedrine and pseudoephedrine. The first decline was associated with a statute that moved the products behind the counter, the second phase required photo identification and logging of purchases, which appeared to be responsible for further declines in meth labs. The third phase, effective since 2006, designated ephedrine and pseudoephedrine as prescription drugs. In 2004, Oregon reported 448 clandestine labs in the state. Since the prescription requirement went into effect, the number of meth labs in Oregon were reported to be 22 in 2007, 21 in 2008, and 10 in 2009. This represents a decrease of almost 98%.

Explanation of State Revenues: (See *Explanation of State Expenditures* regarding federal reimbursement in the Medicaid Program.)

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning, FSSA.

Local Agencies Affected:

Information Sources: FSSA, ISP, IPLA, Board of Pharmacy, , June 2010, Criminal Justice Commission, State of Oregon at: http://www.oregon.gov/CJC/docs/Crime_Report_2010.pdf?ga=t; and *DEA State Fact Sheets* at http://www.justice.gov/dea/pubs/state_factsheets/oregon.html, *Statement of Senator Ron Wyden of Oregon to the Senate Caucus on International Narcotics Control Hearing*, April 13,2010, at <http://drugcaucus.senate.gov/wyden-pseudoephedrine-hearing-4-13-10.html>.

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